

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES KIRKHAM et al.,  
Plaintiffs,

v.

TAXACT, INC.,  
Defendant.

CIVIL ACTION

NO. 23-3303

**ORDER**

**AND NOW**, this 15th day of March, 2024, upon consideration of TaxAct's Amended Motion to Compel Arbitration and Stay Proceedings (ECF No. 55), Plaintiff's Response in Opposition thereto (ECF No. 70), and TaxAct's Reply in Support (ECF No. 73), **IT IS HEREBY ORDERED** that Defendant's Motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. TaxAct's Motion for a Stay with respect to Kirkham's claims is hereby **GRANTED**.
  - a. In that TaxAct's operative Terms of Service requires arbitration be held in Dallas County, Texas, and "9 U.S.C. § 4 does not permit a district court to enter an order compelling arbitration outside the district where it sits," *Henry ex rel. BSC Ventures Holdings, Inc. Emp. Stock Ownership Plan v. Wilmington Tr. NA*, 72 F.4th 499, 504 n.5 (3d Cir. 2023), *cert. denied sub nom. Wilmington Trust, N.A. v. Marlow*, No. 23-122 (U.S. Oct. 16, 2023), TaxAct's Motion to Compel Arbitration with respect to Kirkham is accordingly **DENIED WITHOUT PREJUDICE**.
2. TaxAct's Motion with respect to Sessoms' claims is hereby **DENIED**.

**BY THE COURT:**

/s/Wendy Beetlestone, J.

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**WENDY BEETLESTONE, J.**